

§ 531.215

5 CFR Ch. I (1–1–10 Edition)

Step A	Apply the geographic conversion rule in § 531.205 to determine the rates of basic pay for the GS–7, step 7, position in Washington, DC. Based on the GS–7 position before promotion (including the old occupational series), the pay schedules applicable to the employee in Washington, DC, would be the General Schedule and the locality rate schedule applicable in Washington, DC.
Step B	Using the underlying General Schedule, increase the GS–7, step 7, rate by two within-grade increases, which produces the GS–7, step 9, rate.
Step C	The payable (highest) rate of basic pay for GS–7, step 9, is the corresponding GS–7, step 9, locality rate in Washington, DC.
Step D	If the employee were promoted to a GS–9 position in the old occupational series, the highest applicable rate range for that GS–9 position after promotion would be the GS–9 locality rate range in Washington, DC. The GS–9, step 3, locality rate is the lowest step rate in that range that equals or exceeds the GS–7, step 9, locality rate from step C.
Step E	Convert the GS–9, step 3, locality rate to the higher GS–9, step 3, special rate that applies to the employee’s position after promotion (including the new occupational series). That GS–9, step 3, special rate is the payable rate of basic pay upon promotion.
Step F	Assume that the standard method would have compared the GS–7, step 9, locality rate directly to the higher GS–9 range of special rates and produced a rate of GS–9, step 1. Since the rate produced by the alternate method (GS–9, step 3) is greater than the rate produced by the standard method, the result of the alternate method is used.

(5) *If employee was receiving a retained rate before promotion.* (i) If an employee’s existing payable rate of basic pay before promotion is a retained rate, apply the applicable promotion methods in paragraphs (d)(3) or (d)(4) of this section as if the employee were receiving the maximum rate of the employee’s grade before promotion.

(ii) If the payable rate of basic pay after promotion determined under paragraph (d)(5)(i) of this section is greater than the employee’s existing retained rate, the employee is entitled to that payable rate.

(iii) If the existing retained rate is greater than the rate determined under paragraph (d)(5)(i) of this section, the retained rate must be compared to the highest applicable rate range for the position after promotion, as provided in 5 CFR 536.304. The employee is entitled to the lowest step rate in the range that equals or exceeds the retained rate or, if the retained rate ex-

ceeds the range maximum, to the retained rate.

(6) *If employee is promoted from GS–1 or GS–2.* In applying the promotion rule to an employee who is promoted from step 9 or 10 of grade GS–1 or GS–2, the value of two within-grade increases is determined by doubling the within-grade increase between step 9 and 10 for the applicable grade.

(e) *Temporary promotions.* Pay is set for an employee receiving a temporary promotion on the same basis as a permanent promotion. Upon expiration or termination of the temporary promotion, pay is set as provided in § 531.215(c). If a temporary promotion is made permanent immediately after the temporary promotion ends, the agency may not return the employee to the lower grade; instead, the agency must convert the employee’s temporary promotion to a permanent promotion without a change in pay.

(f) *Corrections of demotions.* The promotion rule in this section may not be used in correcting an erroneous demotion. (See § 531.215(e).)

[70 FR 31291, May 31, 2005, as amended at 70 FR 74995, Dec. 19, 2005]

**§ 531.215 Setting pay upon demotion.**

(a) *General.* Except as otherwise provided in this section, an employee who is demoted is entitled to the minimum payable rate of basic pay for the lower grade unless the agency sets the employee’s pay at a higher rate under—

(1) The grade and pay retention rules in 5 CFR part 536, as applicable; or

(2) The maximum payable rate rule in § 531.221, as applicable.

(b) *Geographic conversion.* If the employee’s official worksite after demotion is in a different geographic location where different pay schedules apply, the agency must first convert the employee’s payable rate of pay as required by § 531.205 before setting the demoted employee’s pay using the grade and pay retention rules in 5 CFR part 536 or the maximum payable rate rule in § 531.221.

(c) *Expiration or termination of a temporary promotion.* (1) When an employee is returned to the lower grade from which promoted on expiration or termination of a temporary promotion, the agency must set the employee’s

payable rate of basic pay in the lower grade as if he or she had not been temporarily promoted, unless the agency sets pay at a higher rate under the maximum payable rate rule in § 531.221. As provided in subpart D of this part, time during the temporary promotion may be creditable service towards GS within-grade increases in the lower grade.

(2) If a temporary promotion is made permanent immediately after the temporary promotion ends, the agency may not return the employee to the lower grade. (See § 531.214(e).)

(d) *Demotion upon failure to complete a supervisory probationary period.* When an employee promoted to a supervisory or managerial position does not satisfactorily complete a probationary period established under 5 U.S.C. 3321(a)(2) and is returned to a position at the lower grade held before the promotion, the agency must set the employee's payable rate of basic pay upon return to the lower grade as if the employee had not been promoted to the supervisory or managerial position, unless the agency sets pay at a higher rate under the maximum payable rate rule in § 531.221. As provided in subpart D of this part, time served following the promotion may be creditable service towards GS within-grade increases in the lower grade. However, nothing in this paragraph prohibits an agency from taking action against an employee serving under a probationary period under 5 U.S.C. 3321(a)(2) for cause unrelated to supervisory or managerial performance and setting pay in accordance with such action.

(e) *Correcting an erroneous demotion.* When a demotion is determined to be erroneous and is canceled, the agency must set the employee's rate of basic pay as if the employee had not been demoted. The action is a correction of the original demotion action and may not be treated as a promotion under § 531.214. For example, when a demotion based on a reclassification of the employee's position is found to be erroneous and is corrected retroactively under 5 CFR 511.703, the corrective action is cancellation of the original demotion.

[70 FR 31291, May 31, 2005, as amended at 73 FR 66152, Nov. 7, 2008]

**§ 531.216 Setting pay when an employee moves from a Department of Defense or Coast Guard non-appropriated fund instrumentality.**

(a) *General.* This section governs the setting of pay for an employee who moves to a GS position in the Department of Defense or the Coast Guard from a position in a nonappropriated fund instrumentality (NAFI) (as described in 5 U.S.C. 2105(c)) of the Department of Defense or the Coast Guard, respectively, without a break in service of more than 3 days. If an employee moves from a NAFI position to a GS position with a break of more than 3 days or moves from a NAFI position in the Department of Defense or the Coast Guard to a GS position outside of the Department of Defense or the Coast Guard, respectively, the employee has no special conversion rights and this section does not apply.

(b) *NAFI highest previous rate.* For the purpose of this section, the term "NAFI highest previous rate" means the highest rate of basic pay received by an employee during service in a NAFI position, as described in 5 U.S.C. 2105(c).

(c) *Voluntary move.* (1) For a Department of Defense or Coast Guard employee who moves voluntarily, without a break in service of more than 3 days, from a NAFI position in the Department of Defense or the Coast Guard to a GS position in the Department of Defense or the Coast Guard, respectively, the agency may set the employee's initial payable rate of basic pay at the lowest step rate in the highest applicable rate range currently in effect for the employee's GS position of record and official worksite which equals or exceeds the employee's NAFI highest previous rate of pay, or any lower step rate, except as provided in paragraph (c)(2) or (3) of this section. The employee's initial payable rate of basic pay may not exceed the maximum step rate (step 10).

(2) If the highest applicable rate range would be different if the official worksite for the employee's position of record were located at the place where the employee was stationed while earning the NAFI highest previous rate, the agency must determine the employee's